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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,078	03/05/2002	Herbert Cooper	F-7885	6721

7590 10/23/2002

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EXAMINER

HAYES, BRET C

ART UNIT	PAPER NUMBER
3644	

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/091,078	COOPER, HERBERT
	Examiner Bret C Hayes	Art Unit 3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

4) Claim(s) 1-28 is/are pending in the application.

- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 21-24 is/are allowed.
- 6) Claim(s) 1-4,6,7,9,10,15 and 25 is/are rejected.
- 7) Claim(s) 5,8,11-14,16-20 and 26-28 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 March 2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 – 4, 6, 9, 10, 15 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,140,9285 to Frick.

3. Regarding claim 1, Frick discloses a fishing system to be mounted to a boat, the system comprising: a housing 32; a mast 14 disposed on the housing 32; a first actuator 78 connected to and rotating the mast 14 and a second actuator 52 connected to and pivoting the mast 14. Frick discloses the claimed invention except for the mast being disposed in the housing and the second actuator pivoting the housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the mast within the housing and pivot the entire housing instead of solely the mast, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japiske*, 86 USPQ 70.

4. Regarding claim 2, Frick discloses the system including a holding plate 60.

5. Regarding claim 3, Frick discloses the claimed invention except for the holding plate having bearing journals and support trunions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use bearing journals and support trunions, since it was known in the art that journals assist in rotational components and trunions assist in supporting structures.

6. Regarding claim 4, Frick discloses the second actuator **52** being coupled to the holding plate **60**.
7. Regarding claim 6, Frick discloses the claimed invention except for the mast **14** being made of carbon fiber. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the mast from carbon fiber, since it has been held to be within the general skill of a worker in the art to select a known material, which carbon fiber is, on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.
8. Regarding claim 9, Frick discloses the actuators being electro-hydraulic.
9. Regarding claim 10, Frick discloses a base part **38** rotatably connected to the mast **14**.
10. Regarding claim 15, Frick discloses the claimed invention except for a clamp. Frick discloses retaining means, which can be any art recognized equivalent, to include a clamp.
11. Regarding claim 25, see paragraphs 3 and 7 above.
12. Claim 7 is rejected under 35 U.S.C. § 103 as being unpatentable over Frick in view of US Patent No. 5,445,102 to Rupp. Frick discloses the invention substantially as claimed. See paragraph 3 above. However, Frick does not disclose the mast being formed of three parts telescopically connected. Rupp teaches telescopically connecting members in the same field of endeavor for the purpose of connecting outrigger members. It would have been obvious to one having ordinary skill in the art at the time the invention was made to telescopically connect the mast members in order to allow extending, retracting and pivoting of the mast. Further, Frick discloses the claimed invention except for the mast being formed in three parts. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form

the mast of any number of parts, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

***Allowable Subject Matter***

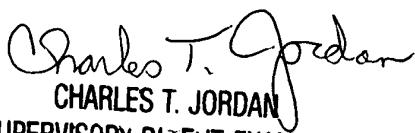
13. Claims 21 – 24 are allowed.
14. Claims 5, 8, 11 – 14, 16 – 20 and 26 – 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (703) 306-0553. The examiner can normally be reached Monday through Friday from 7:00 am to 4:30 pm, Eastern Standard Time.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan, can be reached at (703) 306-4159. The fax number for this group is (703) 305-7687.

bh

  
CHARLES T. JORDAN  
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10/20/02